

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

SCHEDULING ORDER

07-CR-6078L

v.

RICHARD PHILHOWER,

Defendant.

Defendant, Richard Philhower, has pleaded guilty to a criminal charge and is now pending sentencing. The parties appeared on March 6, 2008, for a sentencing proceeding and, although some matters and issues were resolved, sentencing was adjourned, without date, for a hearing on the issue of whether a 5 point enhancement under Sentencing Guidelines 2G2.2(b)(5) should apply for engaging in a pattern of activity relating to the sexual abuse or exploitation of a minor.


Sufficient time has passed, and I assume the parties are ready to proceed. Therefore, I am scheduling this matter for a hearing on the disputed issue on the 3rd day of December, 2008 at 11:00 a.m.

At least seven days prior to that hearing, the Government is to provide the Court and defense counsel with a list of witnesses that it intends to offer. Does the Government intend to proceed with testimony, proffer or by some other means?

I have received defendant's request for subpoenas concerning records of two minors. By letter dated November 4, 2008, the Government objects to issuance of these subpoenas.

I am, therefore, scheduling oral argument on defendant's application for the 25th day of November, 2008 at 9:00 a.m. Prior to that hearing, both sides should submit legal memoranda supporting their respective positions.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
November 6, 2008.